IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6068 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge?: 1 to 5 No

---

DADASINH G. CHAUHAN

Versus

DIVISIONAL CONTROLLER

Appearance:

MR PRABHAKAR UPADHYAY for MR MUKESH H RATHOD for Petitioner No. 1

MR HARDIK C RAWAL for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 05/07/2001

ORAL JUDGEMENT

1. This petition under Article 227 of the

Constitution by a driver of the respondent Corporation seeks to challenge the award of the Labour Court, Vadodara in Reference (LCV) No.11/84 whereby he is ordered to be reinstated without backwages and with the punishment of stoppage of three increments with permanent effect. The impugned award, in fact, set aside the order of dismissal and substituted the punishment by the aforesaid order in exercise of the powers under Section 11-A of the Industrial Disputes Act.

2. It appears from plain reading of the impugned award that the petitioner, a driver, had caused an accident at a railway crossing which was closed and even while stopping the vehicle at the railway crossing, the accident had occurred admittedly when the brake had not failed. However, after appreciation of evidence and in the overall facts and circumstances, the Labour Court was inclined to exercise its powers under Section 11-A of the Industrial Disputes Act and has substituted the order of punishment in favour of the petitioner. The award as above having been made in judicious exercise of discretion conferred upon the Labour Court and no error, much less an error apparent on the face of record, having been pointed out on behalf of the petitioner, this Court finds no reason to interfere with the impugned award. The contention that denial of backwages and stoppage of three increments with permanent effect was also an excessive punishment is without any substance.

3. Accordingly, the petition is dismissed and Rule is discharged with no order as to costs.

Sd/-

05.7.2001 (D.H.Waghela, J.)

(KMG Thilake)